

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

KENNETH BROOKS,	)	
Plaintiff,	)	
	)	
V.	)	Case Number: 1:05-cv-11674 GAO
	)	
THE UNITED STATES OF AMERICA, and )		
MARY JANE ESTRADA, N.P.	)	
Defendants.	)	

**REQUEST FOR DEFAULT**  
**PURSUANT TO FED. R. CIV. P. 55(a)**

TO THE CLERK OF THE ABOVE NAMED COURT:

NOW COMES the plaintiff, through his attorney, William J. Thompson, and requests the court enter a Default against the defendant, Mary Jane Estrada, N.P., for failure to answer the complaint. The plaintiff states that the Complaint, naming the defendant, Mary Jane Estrada, N.P., was filed on August 11, 2005. To date, Mary Jane Estrada, N.P., has failed to file an Answer or other responsive pleading.

Early on in this case it was determined that Michael Folino, M.D. was a federal employee. The plaintiff, through his attorney, requested the United States government to discern whether the defendant, Mary Jane Estrada, N.P., was also a federal employee at the time of the alleged negligence. Eventually, the plaintiff learned the government did not employ the defendant, Mary Jane Estrada, N.P., and the plaintiff immediately proceeded with service. The federal Summons and a copy of the complaint was served on the Defendant, Mary Jane Estrada, N.P., on April 5, 2006, as appears from the Proof of Service of Process (attached as Exhibit A). The plaintiff received proof of good service from the sheriff, and filed the Return of Service with this court on May 5, 2006.

(See Exhibit A). After no answer was filed, the plaintiff attempted to notify the Defendant, Mary Jane Estrada, N.P., that she was required to file an Answer to this complaint. (See Exhibit B). There has been no response from the Defendant to date. The plaintiff further states that the time within which the Defendant, Mary Jane Estrada, N.P., shall serve a responsive pleading or otherwise defend pursuant to Fed. R. Civ. P. 12(a), has expired and the Defendant herein has failed to serve or file an Answer or otherwise defend as to the complaint.

WHEREFORE, the plaintiff makes application that the Defendant, Mary Jane Estrada, N.P., be defaulted for failure to answer plaintiff's Complaint.

Respectfully submitted,  
The plaintiff,  
By his attorney,

s/ William J. Thompson

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WILLIAM J. THOMPSON  
LUBIN & MEYER, P.C.  
100 City hall Plaza  
Boston, MA 02108  
(617) 720-4447  
BBO#: 559275

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August 1, 2006

United States District Court for the  
District of Massachusetts  
John Joseph Moakley U.S. Courthouse  
1 Courthouse Way  
Boston, MA 02210

**Re: Kenneth Brooks**  
**Vs. The United States of America and Mary Jane Estrada, N.P.**  
**Case Number 1:05 cv 11674 GAO**

Dear Sir or Madam:

Regarding the above-referenced matter, enclosed please find the following documents:

1. Request for Default Pursuant to Fed. R. Civ. P. 55(a); and
2. Affidavit of Attorney William J. Thompson in Support of Plaintiff's Request for Default.

May the same please be filed accordingly. Thank you.

Sincerely,

s/ William J. Thompson

William J. Thompson

WJT/km  
Enclosures  
[1783]

cc: Rayford A. Farquhar, Esquire

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

KENNETH BROOKS,  
Plaintiff,

V.

THE UNITED STATES OF AMERICA, and )  
MARY JANE ESTRADA, N.P. )  
Defendants. )

Case Number: 1:05-cv-11674

**AFFIDAVIT OF ATTORNEY WILLIAM J. THOMPSON IN SUPPORT OF  
PLAINTIFF'S REQUEST FOR DEFAULT**

I, William J. Thompson, hereby depose and state as follows:

1. I am an attorney in good standing and I represent the plaintiff in this action.
2. On or about August 11, 2005, this action was filed against Mary Jane Estrada, N.P.
3. On or about April 7, 2006, the Return of Service was filed with the court for Mary Jane Estrada, N.P.
4. To date, the defendant has not filed an Answer or any responsive pleading.
5. To the best of my knowledge and belief, Mary Jane Estrada, N.P., is not on active duty with the military.

The above stated facts are true and accurate under the pains and penalties of perjury.

08-01-06

\_\_\_\_\_  
Date

s/ William J. Thompson

\_\_\_\_\_  
William J. Thompson

CERTIFICATE OF SERVICE

I, William J. Thompson, hereby certify that on the 1<sup>st</sup> day of August, 2006, I served the within document(s):

1. Request for Default Pursuant to Fed. R. Civ. P. 55(a); and
2. Affidavit of Attorney William J. Thompson in Support of Plaintiff's Request for Default

on all counsel of record by mailing a copy of same, first class mail, postage prepaid to the following:

Rayford A. Farquhar  
Assistant U.S. Attorney  
John J. Moakley U.S. Courthouse  
One Courthouse Way, Suite 9200  
Boston, MA 02210

s/ William J. Thompson

---

William J. Thompson

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May 5, 2006

United States District Court for the  
District of Massachusetts  
John Joseph Moakley U.S. Courthouse  
1 Courthouse Way  
Boston, MA 02210

**Re: Kenneth Brooks**  
**Vs. The United States of America and Mary Jane Estrada, N.P.**  
**Case Number 1:05 cv 11674 GAO**

Dear Sir or Madam:

Enclosed for filing and docketing in the above-referenced matter, please find an original summons with a proof of service as to defendant Mary Jane Estrada, N.P.

Thank you for your attention to this matter.

Sincerely,

s/ William J. Thompson

William J. Thompson

WJT/km  
Enclosures  
[1783]

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June 6, 2006

Mary Jane Estrada, NP  
15 Selkirk Road, Apt. 1  
Brighton, MA 02135

**Re: Kenneth Brooks**  
**Vs. The United States of America and Mary Jane Estrada, N.P.**  
**Case Number 1:05 cv 11674 GAO**

Dear Ms. Estrada:

In April you were served with a Summons and a Complaint in the above-captioned case. The Summons has been filed with the United States District Court. Under the court rules, you must file an Answer or risk being defaulted.

I have reason to believe that you may be insured for this claim. I recommend that you put your insurer on notice of the lawsuit. If you cooperate with your insurer, they will likely provide a defense for you and you may benefit from the available insurance coverage. If you do not cooperate, your insurer may deny you the coverage to which you are presently entitled.

I urge you to forward the Summons and Complaint to your insurer immediately. Please let me know if you need another copy of the Summons and Complaint, or if I can be of any further assistance.

Very truly yours,

s/ William J. Thompson

William J. Thompson

WJT/km  
[1783]





**Suffolk County Sheriff's Department** • 45 Bromfield Street • Boston, MA 02102 (617) 961-6999  
I hereby certify and return that on 4/5/2006 at 10:30AM I served a true and  
correct copy of the Summons and Complaint in this action in the following  
manner: To wit, by leaving at the last and usual place of abode of Mary Jane  
Estrada, N.P., 15 Selkirk Road Apt 1 Brighton, MA 02135 and by mailing 1<sup>st</sup>  
class to the above address on 4/7/2006. Basic Service Fee (LU) (\$20.00), U.S.  
District Court Fee (\$5.00), Conveyance (\$2.40), Travel (\$5.12), Postage and  
Handling (\$3.00), Attest/Copies (\$10.00) Total Charges \$45.52

Deputy Sheriff Edward J. Tobin

*Edward J. Tobin*  
Deputy Sheriff

Executed on \_\_\_\_\_ Date \_\_\_\_\_  
Signature of Server \_\_\_\_\_  
Address of Server \_\_\_\_\_

I declare under penalty of perjury under the laws of the United States of America that the foregoing information  
contained in the Return of Service and Statement of Service Fees is true and correct.

DECLARATION OF SERVER

TRAVEL	SERVICES	TOTAL
--------	----------	-------

STATEMENT OF SERVICE FEES

<input type="checkbox"/> Served personally upon the third-party defendant. Place where served: _____
<input type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.
Name of person with whom the summons and complaint were left: _____
<input type="checkbox"/> Returned unexecuted: _____
<input type="checkbox"/> Other (specify): _____

Check one box below to indicate appropriate method of service

NAME OF SERVER (PRINT)	TITLE
Service of the Summons and complaint was made by me	DATE

RETURN OF SERVICE

521800000